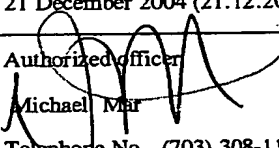


PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference 011525-384	FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)	
International application No. PCT/US04/00024	International filing date (<i>day/month/year</i>) 02 January 2004 (02.01.2004)	Priority date (<i>day/month/year</i>) 03 January 2003 (03.01.2003)
International Patent Classification (IPC) or national classification and IPC IPC(7): B65D 35/34 and US Cl.: 222/100,494,541.1		
Applicant H. J. HEINZ COMPANY		
<p>1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of <u>4</u> sheets, including this cover sheet.</p> <p><input type="checkbox"/> This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).</p> <p>These annexes consist of a total of <u> </u> sheets.</p>		
<p>3. This report contains indications relating to the following items:</p> <ul style="list-style-type: none"> I <input checked="" type="checkbox"/> Basis of the report II <input type="checkbox"/> Priority III <input type="checkbox"/> Non-establishment of report with regard to novelty, inventive step and industrial applicability IV <input type="checkbox"/> Lack of unity of invention V <input checked="" type="checkbox"/> Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement VI <input type="checkbox"/> Certain documents cited VII <input type="checkbox"/> Certain defects in the international application VIII <input checked="" type="checkbox"/> Certain observations on the international application 		
Date of submission of the demand 28 July 2004 (28.07.2004)	Date of completion of this report 21 December 2004 (21.12.2004)	
Name and mailing address of the IPEA/US Mail Stop PCT, Attn: IPEA/US Commissioner for Patents P.O. Box 1450 Alexandria, Virginia 22313-1450 Facsimile No. (703) 305-3230	Authorized officer  Michael Mar Telephone No. (703) 308-1148	

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.
PCT/US04/00024**I. Basis of the report****1. With regard to the elements of the international application:***

- ☒ the international application as originally filed.
- ☒ the description:
pages 1-13 _____ as originally filed
pages NONE _____, filed with the demand
pages NONE _____, filed with the letter of _____.
- ☒ the claims:
pages 14-18 _____, as originally filed
pages NONE _____, as amended (together with any statement) under Article 19
pages NONE _____, filed with the demand
pages NONE _____, filed with the letter of _____.
- ☒ the drawings:
pages 1-3 _____, as originally filed
pages NONE _____, filed with the demand
pages NONE _____, filed with the letter of _____.
- ☐ the sequence listing part of the description:
pages NONE _____, as originally filed
pages NONE _____, filed with the demand
pages NONE _____, filed with the letter of _____.

2. With regard to the language, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language _____ which is:

- ☐ the language of a translation furnished for the purposes of international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of the translation furnished for the purposes of international preliminary examination (under Rules 55.2 and/or 55.3).

3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in printed form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. ☐ The amendments have resulted in the cancellation of:

- ☐ the description, pages NONE
- ☐ the claims, Nos. NONE
- ☐ the drawings, sheets/fig NONE

5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).**

* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17).

** Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.

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V. Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. STATEMENT

Novelty (N)	Claims <u>2,5,6,8-15,18,23,24</u>	YES
	Claims <u>1,3,4,7,16,17,19-22,25,26</u>	NO
Inventive Step (IS)	Claims <u>NONE</u>	YES
	Claims <u>1-26</u>	NO
Industrial Applicability (IA)	Claims <u>1-26</u>	YES
	Claims <u>NONE</u>	NO

2. CITATIONS AND EXPLANATIONS

Claims 1, 3, 4, 7, 16, 17, 19-22, 25 and 26 lack novelty under PCT Article 33(2) as being anticipated by Odgen (US 3,917,118). Claims 2 and 18 lack an inventive step under PCT Article 33(3) as being obvious over Odgen. Odgen discloses toothpaste, however, it is well known to dispense condiments from collapsible tubes.

Claims 5 and 23 lack an inventive step under PCT Article 33(3) as being obvious over Odgen in view of Lord (US 2,600,553). Odgen does not disclose tapered bottom walls while Lord teaches them. This would be an obvious modification to add the tapered walls of Lord to the dispenser of Odgen.

Claims 6 and 24 lack an inventive step under PCT Article 33(3) as being obvious over Odgen in view of Herron (US 6,126,219). Odgen does not disclose the nozzle in a vertical slot, while Herron teaches a nozzle in a vertical slot. It would have been obvious for one of ordinary skill in the art at the time the invention was made to use a vertical slot for the nozzle of Odgen, as taught by Herron, in order to dispense from the side of the container instead of the bottom.

Claims 8, 10 and 11 lack an inventive step under PCT Article 33(3) as being obvious over Odgen in view of Credle (US 2002/0190080). Odgen does not disclose the nozzle in the corner of the bag between two sealed edges while Credle teaches this in Figure 2 and 4. It would have been obvious for one of ordinary skill in the art at the time the invention was made to provide the nozzle of Odgen in the location taught by Credle as a matter of design choice.

Claims 12-15 lack an inventive step under PCT Article 33(3) as being obvious over the prior art as applied in the immediately preceding paragraph and further in view of Johnson. Odgen as modified by Credle does not disclose a slitted nozzle with a peelable seal, while Johnson teaches this. It would have been obvious for one of ordinary skill in the art at the time the invention was made to provide the nozzle of Odgen/Credle with the features taught by Johnson in order to prevent unwanted discharge of the product.

Claim 9 lacks an inventive step under PCT Article 33(3) as being obvious over Odgen in view of Terazawa (US 2001/0017998). Odgen does not disclose the nozzle between two sealed side walls while Terazawa teaches this in Figure 1. It would have been obvious for one of ordinary skill in the art at the time the invention was made to provide the nozzle of Odgen in the location taught by Terazawa as a matter of design choice.

Claims 1-26 meet the criteria set out in PCT Article 33(4), and thus have industrial applicability because the subject matter claimed can be made or used in industry.

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VIII. Certain observations on the international application

The following observations on the clarity of the claims, description, and drawings or on the questions whether the claims are fully supported by the description, are made:

Claims 16, 17, 21 and 26 are objected to under PCT Rule 66.2(a)(v) as lacking clarity under PCT Article 6 because claims 16, 17, 21 and 26 are indefinite for the following reason(s): They recite that the ratchet is on the shaft and the pawl interacts with the ratchet to prevent rotation of the pawl in one direction but allow rotation in the other direction, while the pawl doesn't rotate, it is the ratchet that rotates in one direction and not the other.